IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17863 of 2004

Between:

1 Uma Mamidipudi, W/o. Ranganath,
R/o. 80-Road No.3, West Marrepally, Hyderabad - 26.
2 P. Bapoo Row, S/o. Late Subba Rayudu,
R/o. 89 AWHO Sector - A, Gouthami Enclave, Secunderabad - 9.

..... PETITIONER(S)

AND

1 Union of India, Rep. by its Secretary,
Ministry of Labour, New Delhi.
2 Advertisements Standards Council of India, 205, Bombay Market, Tardes Road,
Mumbai- 400 034. Rep. by its President.
3 Board of Control for Cricket in India, Rep. by President: Jagmohan Dalmia,
"Khairah" G.H.S. Lane , Manacand, Trivandrum, Kerala, India.
4 Pepsi India Private Limited, Regd. Office B-3, DLF, Corporate Plaza,
'S' Block, Phase-III, Quatab Enclave, Gurgaon 122 002. Haryana, India,
Rep. by its Manager.
5 Sony entertainment Television, Shah Industrial Estate,
Off: Veera Desai Raod, Andheri West, Mumbai, Maharashtra, India,
Rep. by its Manager.
6 Savrav Ganguly, Captain, Cricket Team,
Board of Control for Cricket in India, 'Khairah' G.H.S. Lane, Manacand,
Trivandrum, Kerala, India.
7 Sachin Tendulkar, Cricket Player,
Board of Control for Cricket in India, 'Khairah' G.H.S. Lane, Manacand,
Trivandrum, Kerala, India.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction, more particularly one in the nature of Writ of Mandamus: i) declaring the inaction of the Respondent No. &2 in restraining the Respondents No.3 to 7 from depicting Child Labour as arbitrary, illegal and contrary to Article 21, 24 &45 of the constitution of India; ii) direct the Respondent authorities not to televise any advertisement depicting or glorifying child Labour.

Counsel for the Petitioner:MR.A.SUDERSHAN REDDY

Counsel for the Respondent No.1 and 2: MR.ARAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondents 3 and 4: Mr. S. Niranjan Reddy

Counsel for the Respondents 5 to 7: None

The Court made the following Oral Order : (per Sri Devinder Gupta, CJ)

This petition is filed by a public spirited person complaining to the Court about the objectionable nature of an advertisement telecasted during the ICC Champions Trophy, depicting a small boy aged about 10 years serving Pepsi to the Indian Team. It is further stated that the Captain of Indian Team further abated the denigration of Child Labour by asking "Hey Hero Ek aur Pepsi Milega Kya?" This, according to the petitioner, denigrates the children who are of impressionable age to be carried away by advertisements of this nature. Petitioner makes a grievance that advertisement aired by respondents is in utter disregard to the Constitutional Mandate and Convention on the Rights of Child, which was ratified by the Government of India on 28th November, 1989.

Respondent No.4 was responsible in airing the advertisement and when the petition came up for admission on 4.10.2004, respondents 1 to 3 were directed to ensure that advertisements issued by the 4th respondent depicting the children as Labour is not displayed or telecasted and published in any manner whatsoever till further orders.

On 11th October, 2004, when the petition was taken up again, learned counsel appearing for the respondent No.4 made a statement that since 19th September,2004, the impugned advertisement is not being telecasted and a decision in this regard has been voluntarily taken by the respondent No.4 in view of certain protest made in the well informed Sections of the society.

Mr. Rajat Lal, General Manager-Finance of PepsiCo India Holdings Pvt. Ltd., has

filed affidavit on behalf of the 4th respondent stating that the 4th respondent had got the television commercial prepared, which revolved around a theme of making cricket fans and children central to the game of cricket. In the television commercial, an ardent cricket fan (a boy), carries Pepsi to the Indian Team every time they are huddled to celebrate the fall of a wicket. In the advertisement, the captain finishes his drink and asks the boy for another Pepsi and the boy cheekily banters and responds that he will get him another Pepsi only after another wicket falls. There is no exchange of money. The boy is obviously delighted to have the opportunity to deliver drinks to the idolised team members. Reply further states that unfortunately the television commercial based on a healthy theme has caused some anxiety, though, there was no such intention on the part of the 4th respondent in depicting the boy in the manner in which the same is perceived by some. Therefore, the 4th respondent voluntarily withdrew the advertisement and has not aired the same after the I.C.C. Tourney in England.

In view of the fact that the main advertisement which was being got aired by the 4th respondent was voluntarily withdrawn, the writ petition itself was rendered infructuous and no further orders would be required to be passed. In any case, we would close the writ petition with a direction to the respondents to ensure that in none of their advertisements, similar type of theme is depicted depicting child labour.

The writ petition is accordingly closed. No costs.

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DEVINDER GUPTA, CJ

Date: 8th November, 2004

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C.V.RAMULU,J

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To

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